

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

U.S. BANK NATIONAL ASSOCIATION, as
Trustee,

Plaintiff,

v.

EEL RIVER INVESTMENT COMPANY, et
al.,

Defendant.

Case No. C04-5623 RBL

ORDER ON PLAINTIFF'S MOTION TO
STRIKE EXPERT WITNESSES

THIS MATTER comes on before the above-entitled Court upon Plaintiff's Motion to Strike Eel River Defendant's Expert Witnesses [Dkt. #169].

Having considered the entirety of the records and file herein, the Court rules as follows:

On November 2, 2005 the Eel River defendants filed a motion to extend the time to disclose their expert witnesses [Dkt. #166]. Plaintiff did not oppose the motion, and on November 9, 2005 this Court entered an Order setting the date for disclosure of expert witnesses for November 21, 2005 and for disclosure of rebuttal experts for December 21, 2005 [Dkt. #167]. On November 21, 2005 the Eel River defendants disclosed two expert witnesses. The disclosure did not meet the requirements of Fed. R. Civ. P. 26(a)(2)(B) in that it did not contain written reports of the witnesses setting forth the basis of the opinions. The disclosure did include curriculum vitae for the two witnesses. The curriculum vitae for Ms. Cobb did not include information regarding prior testimony. The curriculum vitae for Mr. Pederson did include information that Mr. Pederson had testified in prior cases but did not include the names of those cases and did not include

1 information about any publications he authored. The disclosure also did not include any information regarding
2 the compensation paid to either Ms. Cobb or Mr. Pederson.

3 The Court strongly believes that cases should be decided on the merits, and because this trial date is
4 almost five months away (May 1, 2006), any prejudice to the plaintiff caused by the Eel River defendant's
5 failure to timely provide a proper Rule 26 disclosure is minimal. *See, Wendt v. Host International, Inc.*, 125
6 F.3d 806, 814 (9th Cir. 1997) (setting forth the factors the Court is to consider when excluding evidence).
7 Therefore, the Eel River defendants shall provide expert disclosures which conform to the requirements of Fed.
8 R. Civ. P. 26(a)(2)(B) on or before January 13, 2005. Rebuttal experts shall be disclosed on or before
9 February 17, 2006. The January 15, 2006 discovery cutoff is extended for the sole purpose of conducting
10 depositions of the experts. Based on the foregoing, it is hereby

11 **ORDERED** that Plaintiff's Motion to Strike Eel River Defendant's Expert Witnesses [Dkt. #169] is
12 **DENIED.**

13 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing
14 pro se.

15 Dated this 22nd day of December, 2005.

16
17 
18 RONALD B. LEIGHTON
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28